

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**



Plaintiff(s)
Matthew M. Stevens

vs.

Defendant(s)
City of Oneonta
Steve Kruh
Greg Mattice

Civil Case No.: 6:20-cv-317
COMPLAINT PURSUANT (MAD) (ML)
TO THE AMERICANS
WITH DISABILITIES ACT

Plaintiff(s) demand(s) a trial by: X JURY COURT (Select only one).

Plaintiff(s) in the above-captioned action, allege(s) as follows:

JURISDICTION

1. This is a civil action seeking judgment, relief and/or damages brought pursuant to the Americans with Disabilities Act, 42 U.S.C. § 12101 *et seq.*, as amended, for discrimination based upon a disability and the failure to accommodate same. This Court has jurisdiction of this action pursuant to 28 U.S.C. §§ 1331 and 1343(4).

PARTIES

2.
 - a. Plaintiff: Matthew M. Stevens
Address: 391 South America Rd.
Worcester, NY 12197

Additional Plaintiffs may be added on a separate sheet of paper.

- a. Defendant: City of Oneonta
Address: 258 Main Street
Oneonta, NY 13820

b. Defendant: Steve Kruh
Official Position: Chief Waste Water Treatment Plant Operator
Address: 11 Silas Lane
Oneonta, NY 13820

c. Defendant: Greg Mattice
Official Position: City Engineer
Address: 258 Main Street
Oneonta, NY 13820

Additional Defendants may be added on a separate sheet of paper.

3. My disability is as follows: I have been diagnosed with Sarcoidosis of the Heart and Lungs an Auto-Immune Disease. Sarcoidosis of the Lungs in diagnosed April 2009 – Dr. Jederlinic and the Heart diagnosed in October 2018 – Dr. Hutter. This inflammatory disease creates swelling and then scar tissue. In response to the inflamed area the body releases white blood cells to correct the situation. But instead these cells attack the healthy muscle and scarring occurs. As time goes on more healthy tissue is removed and efficiency goes down. Example in the Heart vital muscle is turned to fibrosis or scar tissue. Symptoms I am afflicted by are as follows. I have shortness of breath, left chest pains, frequent wheezing, coughing a lot – clear mucus and blood from coughing, and low oxygen levels.

4. The conduct complained of in this action involves:
(Check all that apply)

- a) _____ Failure to employ.
- b) _____ Termination of employment.
- c) X Denial of participation in public service or program.
- d) _____ Failure to make alterations to accommodate disability.
- e) X Retaliation.

Other acts as specified below:

- X Failure to Promote
- X Failure to allow further Training and Education

5.

FACTS

On the following page, set forth the facts of your case which substantiate your claim of discrimination. List the events in the order they happened, naming defendants involved, dates and places.

Note: Each fact should be stated in a separate paragraph; paragraphs should be numbered sequentially.

You must include allegations of wrongful conduct as to EACH and EVERY defendant in your complaint.

You may use additional sheets as necessary.

Start of Disability Discrimination:

December 2016

12/13/16 - Negative Evaluation by Steve Kruh. I wrote a Rebuttal to this Evaluation. Not taken well.

12/22/16 - Steve Kruh forced me to clear vegetation from Border Fence in freezing weather. Retaliation and Harassment in response to my rebuttal of the evaluation. This job was extreme and hazardous. No one ever touched this fence, especially not in winter. Steve Kruh called it a Priority Job. But the only employee working on the fence line was me.

3/14/17 - Major Snowstorm (over 39 inches)

I called in but was forced to report to work. Steve Kruh allowed all the other employees to leave by noon that day. I was forced to stay at work until 4:30pm to clock out and make up the one hour I missed that morning. Steve Kruh remained at work until 3:00pm to make sure I didn't leave. Steve Kruh put my life in Jeopardy. He also was Discriminating and Harassing me. I couldn't leave and was forced to remain at the WasteWater plant all night.

11/15/17 - Exposed to undercoating by fellow employee. Chemical not allowed on premises. Out of work until early January 2018.

1/16/18 - Fit Test Paperwork handed in to Steve Kruh. Sarcoidosis was written on the paperwork.

2/15/18 – Filed AMP paperwork with Steve Kruh for the Grade 4 Exam 3/2/18.

2/23/18 - Steve Kruh demanded I clean out my locker, hand in my keys to the plant, and we were to go uptown. Fit Test Meeting - I was put on sick leave.

2/26/18 - Katie Bottger and I rescheduled, thru the AMP website, the Grade 4 Exam from March.2, 2018 to March.29, 2018. Katie Bottger was to contact Steve Kruh by email or phone about Grade 4 Exam change. She would have David Coury her assistant do it if she couldn't.

3/7/19 - Steve Kruh refused to let me go and take the Grade 4 Exam scheduled for 3/29/18. He stated no use of the City Truck and no time off - Personal, Sick, or Vacation. Steve would write me up. He would use his authority against me if I didn't come in on 3/29/18 and I would lose pay for that day.

3/20/18 - Greg Mattice, Steve Kruh – Meeting
They both agreed they wouldn't allow me to take the Grade 4 Certification Exam on 3/29/18.

3/29/18 - I didn't go to take the Grade 4 Exam. I was afraid of reprisals and retaliation from Steve Kruh and Greg Mattice.

April 2018 - Steve Kruh and Greg Mattice allowed Chris Pelligra to take his Grade 4 Certification Exam. Chris used the City Truck, the City paid for his lunch, and Chris got paid for the day off without lose of time.

March 2018 to October 2018 - Steve Kruh, Greg Mattice, and Katie Bottger never posted the Chief Position in the WasteWater Treatment Plant. There is a notification board in the main office and no posting was ever posted for Chief Position. I didn't know the position was officially available. Or how and when to apply for said position? When Steve Kruh was retiring in September 2018. Steve Kruh and Katie Bottger both knew that I don't have internet in my home or cell service. I rarely buy the local newspaper.

Failure to let me take the Grade 4 Certification Exam prevented mobility and future economic gain in the field of WasteWater.

Overview:

The Chief WasteWater Position needed the Grade 4 certification to apply.

To fill out and hand in the paperwork for said Chief position requires Grade 4 Certification.

Vera Thompson - Human Rights, Binghamton. Read this description the same way a I do.

6.

PRAYER FOR RELIEF

WHEREFORE, plaintiff(s) request(s) that this Court grant the following relief:

For the year of 2017 - 1 Million Dollars

For the year of 2018 - 1 Million Dollars

Steve Kruh: Harrassed, Retaliated, and Discriminated against me because of my Disability during these years. I have Sarcoidosis of the Heart and Lungs.

1 Million Dollars - City of Oneonta, Steve Kruh, and Greg Mattice

These parties Discriminated against me having a disability. They refused Training and Advancement by blocking the Grade 4 Certification Exam on 3/29/18. They blocked

future economic gain thru non-mobility and hiding how to apply for the Chief WasteWater Position.

Overview:

Blocked Grade 4 Certification Exam - 3/29/18.

Blocked possible Chief Position Advancement.

Lost Future Wages, Vacation, and Raises.

Total Punitive money damages equal 3 Million Dollars.

I declare under penalty of perjury that the foregoing is true and correct.

DATED: 3-19-20

Signature of Plaintiff(s)

(all Plaintiffs must sign)


Matthew Stevens

EEOC Form 161 (11/16)

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DISMISSAL AND NOTICE OF RIGHTS

To: **Matthew Stevens**
391 South America Road
Worcester, NY 12197

From: **New York District Office**
33 Whitehall Street
5th Floor
New York, NY 10004



On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

16G-2019-02261

Holly M. Shabazz,
State & Local Program Manager

(929) 506-5316

THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:



The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.



Your allegations did not involve a disability as defined by the Americans With Disabilities Act.



The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.



Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge



The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.



The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.



Other (briefly state)

- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit must be filed **WITHIN 90 DAYS** of your receipt of this notice; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that backpay due for any violations that occurred **more than 2 years (3 years)** before you file suit may not be collectible.

On behalf of the Commission



Kevin J. Berry,
District Director

December 26, 2019

(Date Mailed)

Enclosures(s)

cc:

Attn: Director of Human Resources
CITY OF ONEONTA, WASTEWATER TREATME
11 Silas Lane
Oneonta, NY 13820

UNITED STATES DISTRICT COURT

for the

Northern District of New York

Albany Division

Matthew M. Stevens

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

City of Oneonta

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

Case No.

*(to be filled in by the Clerk's Office)*Jury Trial: *(check one)* ☒ Yes ☐ No

COMPLAINT FOR EMPLOYMENT DISCRIMINATION

I. The Parties to This Complaint

A. The Plaintiff(s)

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name	Matthew Stevens
Street Address	391 South America Rd.
City and County	Worcester, Otsego
State and Zip Code	NY, 12197
Telephone Number	607-397-8011
E-mail Address	ninrazor87@gmail.com

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title *(if known)*. Attach additional pages if needed.

Defendant No. 1

Name	City of Oneonta
Job or Title <i>(if known)</i>	
Street Address	258 Main Street
City and County	Oneonta, Otsego
State and Zip Code	NY, 13820
Telephone Number	607-432-0670
E-mail Address <i>(if known)</i>	

Defendant No. 2

Name	Steve Kruh
Job or Title <i>(if known)</i>	Chief WasteWater Operator
Street Address	11 Silas Lane
City and County	Oneonta, Otsego
State and Zip Code	NY, 13820
Telephone Number	607-432-7210
E-mail Address <i>(if known)</i>	

Defendant No. 3

Name	Greg Mattice
Job or Title <i>(if known)</i>	City Engineer
Street Address	258 Main Street
City and County	Oneonta, Otsego
State and Zip Code	NY, 13820
Telephone Number	607-432-0670
E-mail Address <i>(if known)</i>	

Defendant No. 4

Name	Paul J. Sweeney, Esq.
Job or Title <i>(if known)</i>	Attorney; Coughlin and Gerhart, LLP
Street Address	99 Corporate Drive
City and County	Binghamton,
State and Zip Code	NY, 13904
Telephone Number	
E-mail Address <i>(if known)</i>	

C. Place of Employment

The address at which I sought employment or was employed by the defendant(s) is

Name	City of Oneonta WasteWater Treatment Plant
Street Address	11 Silas Lane
City and County	Oneonta, Otsego
State and Zip Code	NY, 13820
Telephone Number	607-432-7210

II. Basis for Jurisdiction

This action is brought for discrimination in employment pursuant to *(check all that apply)*:

- ☐ Title VII of the Civil Rights Act of 1964, as codified, 42 U.S.C. §§ 2000e to 2000e-17 (race, color, gender, religion, national origin).

(Note: In order to bring suit in federal district court under Title VII, you must first obtain a Notice of Right to Sue letter from the Equal Employment Opportunity Commission.)

- ☐ Age Discrimination in Employment Act of 1967, as codified, 29 U.S.C. §§ 621 to 634.

(Note: In order to bring suit in federal district court under the Age Discrimination in Employment Act, you must first file a charge with the Equal Employment Opportunity Commission.)

- ☒ Americans with Disabilities Act of 1990, as codified, 42 U.S.C. §§ 12112 to 12117.

(Note: In order to bring suit in federal district court under the Americans with Disabilities Act, you must first obtain a Notice of Right to Sue letter from the Equal Employment Opportunity Commission.)

- ☐ Other federal law *(specify the federal law)*:

- ☐ Relevant state law *(specify, if known)*:

- ☐ Relevant city or county law *(specify, if known)*:

III. Statement of Claim

Write a short and plain statement of the claim. Do not make legal arguments. State as briefly as possible the facts showing that each plaintiff is entitled to the damages or other relief sought. State how each defendant was involved and what each defendant did that caused the plaintiff harm or violated the plaintiff's rights, including the dates and places of that involvement or conduct. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

A. The discriminatory conduct of which I complain in this action includes *(check all that apply)*:

- ☐ Failure to hire me.
- ☐ Termination of my employment.
- ☒ Failure to promote me.
- ☐ Failure to accommodate my disability.
- ☐ Unequal terms and conditions of my employment.
- ☒ Retaliation.
- ☒ Other acts *(specify)*: Failure to allow further Education/Training

(Note: Only those grounds raised in the charge filed with the Equal Employment Opportunity Commission can be considered by the federal district court under the federal employment discrimination statutes.)

B. It is my best recollection that the alleged discriminatory acts occurred on date(s)

12/22/16 - Retaliation, Border Fence.

3/14/17 - Steve Kruh refused to let me leave the premises. Harassment and Discrimination.

2/23/18 - Steve Kruh demanded I clean out locker and hand in keys. Retaliation and Harassment.

3/7/18 - The Grade 4 Certification Exam was blocked by Steve Kruh. I have a recording of him stating he would not allow me to take the Grade 4 Exam that was scheduled for 3/29/18.

3/20/18 - Greg Mattice and Steve Kruh. Both agreed not to let me take the Grade 4 on 3/29/18. Discrimination and refusal for Training and Education.

April 2018 - Steve Kruh allowed Chris Pelligra to take the Grade 4 Certification Exam. The same Grade 4 Exam Steve Kruh blocked me from taking on 3/29/18. Discrimination and refusal for Training and Education.

March to October 2018 - City of Oneonta, Greg Mattice, and Steve Kruh. Not posting the Chief Position where all WasteWater Employees could see it and apply for said position. Discrimination and Failure to promote.

C. I believe that defendant(s) *(check one)*:

- ☐ is/are still committing these acts against me.
- ☒ is/are not still committing these acts against me.

Pro Se 7 (Rev. 12/16) Complaint for Employment Discrimination

D. Defendant(s) discriminated against me based on my *(check all that apply and explain)*:

- ☐ race
- ☐ color
- ☐ gender/sex _____
- ☐ religion _____
- ☐ national origin _____
- ☐ age *(year of birth)* *(only when asserting a claim of age discrimination.)*
- ☒ disability or perceived disability *(specify disability)*
Sarcoidosis of the Heart and Lungs

E. The facts of my case are as follows. Attach additional pages if needed.

Start of Disability Discrimination:

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Overview:

The Chief WasteWater Position needed the Grade 4 certification to apply.

To fill out and hand in the paperwork for said Chief position requires Grade 4 Certification.

Vera Thompson - Human Rights, Binghamton. Read this description the same way as I do.

(Note: As additional support for the facts of your claim, you may attach to this complaint a copy of your charge filed with the Equal Employment Opportunity Commission, or the charge filed with the relevant state or city human rights division.)

IV. Exhaustion of Federal Administrative Remedies

- A. It is my best recollection that I filed a charge with the Equal Employment Opportunity Commission or my Equal Employment Opportunity counselor regarding the defendant's alleged discriminatory conduct on (date)

10/26/2019

- B. The Equal Employment Opportunity Commission (check one):

☐

has not issued a Notice of Right to Sue letter.

☒

issued a Notice of Right to Sue letter, which I received on (date) 12/26/2019

(Note: Attach a copy of the Notice of Right to Sue letter from the Equal Employment Opportunity Commission to this complaint.)

- C. Only litigants alleging age discrimination must answer this question.

Since filing my charge of age discrimination with the Equal Employment Opportunity Commission regarding the defendant's alleged discriminatory conduct (check one):

☐

60 days or more have elapsed.

☐

less than 60 days have elapsed.

V. Relief

State briefly and precisely what damages or other relief the plaintiff asks the court to order. Do not make legal arguments. Include any basis for claiming that the wrongs alleged are continuing at the present time. Include the amounts of any actual damages claimed for the acts alleged and the basis for these amounts. Include any punitive or exemplary damages claimed, the amounts, and the reasons you claim you are entitled to actual or punitive money damages.

Pro Se 7 (Rev. 12/16) Complaint for Employment Discrimination

For the year of 2017 - 1 Million Dollars

For the year of 2018 - 1 Million Dollars

Steve Kruh: Harrased, Retailiated, and Discriminated against me because of my Disability during these years. I have Sarcoidosis of the Heart and Lungs.

1 Million Dollars - City of Oneonta, Steve Kruh, and Greg Mattice

These parties Discriminated against me having a disability. They refused Training and Advancement by blocking the Grade 4 Certification Exam on 3/29/18. They blocked future economic gain thru non-mobility and hiding how to apply for the Chief WasteWater Position.

Overview:

Blocked Grade 4 Certification Exam - 3/29/18.

Blocked possible Chief Position Advancement.

Lost Future Wages, Vacation, and Raises.

Total Punitive money damages equal 3 Million Dollars.

VI. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 3-19-20

Signature of Plaintiff

Matthew Stevens

Printed Name of Plaintiff Matthew M. Stevens

B. For Attorneys

Date of signing:

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Pro Se 7 (Rev. 12/16) Complaint for Employment Discrimination

Street Address

State and Zip Code

Telephone Number

E-mail Address